

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CYNTHIA G. SMITH,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL CASE NO. 3:15-CV-2748-K
	§	
SAM'S CLUB,	§	
Defendant.	§	

ORDER REGARDING MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL

Before the court is Plaintiff's motion for leave to proceed *in forma pauperis* on appeal.

Considering the record in this case and the recommendation of the magistrate judge, the court hereby finds and orders:

- () The motion for leave to proceed *in forma pauperis* on appeal is GRANTED. 28 U.S.C. § 1915.
- (X) The motion for leave to proceed *in forma pauperis* on appeal is DENIED for the following reasons:
 - () The plaintiff is not a pauper.
 - () The plaintiff has not complied with the requirements of 28 U.S.C. § 1915(a)(1) or (a)(2).
 - (X) Pursuant to 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the court certifies that the appeal is not taken in good faith. In support of this finding, the court adopts and incorporates by reference the order filed on August 9, 2018. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the above order, the court finds that the appeal presents no legal points of arguable merit and is therefore frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (*per curiam*).

Although this appeal is certified as not taken in good faith under 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the plaintiff may challenge this finding by filing a separate motion to proceed

in forma pauperis on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this Order.

SO ORDERED.

Signed August 28th, 2018.

A handwritten signature in black ink, reading "Ed Kinkeade". The signature is written in a cursive style with a horizontal line underneath it.

ED KINKEADE
UNITED STATES DISTRICT JUDGE